

BOARD OF BARBERING AND COSMETOLOGY
FINAL STATEMENT OF REASONS

Hearing Date: February 26, 2007

Section(s) Affected: 980.1, 980.2, and 980.3

Updated Information

The Initial Statement of Reasons is included in the file. No changes have been made which would warrant a change to the informative digest contained in the Notice for sections 980.1, 980.2, and 980.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

This action may have a significant adverse economic impact on small businesses. The following alternatives were proposed to lessen such adverse economic impact on small businesses and were rejected for the reasons set forth below:

(1) Leave the regulations as they are and simply increase enforcement of the existing regulations.

Reason for rejection:

It is the Board's responsibility to adopt rules and regulations governing conditions necessary to protect the public health and safety. With outbreaks of infections in the last few years and a death, the Board must revise the cleaning and disinfecting procedures for footspa equipment. Under the direction of the Governor and the collaborative efforts of the Board with (working group) health officials, consumer groups, equipment manufacturers, other interested parties and the responsibility to protect the public, the proposed regulation are reflective of the most effective cleaning and disinfecting practices to carry out the purpose of the Board. The enforcement of all regulations is conducted to the fullest capacity possible.

(2) Do not specify "Liquid" disinfectant in the proposed language.

Reason for rejection:

The working group decided that the liquid disinfectant works best for circulating the solution through the footspa. The group felt that use of a disinfectant of a powder form may have problems fully dissolving in the water. Although the use of a disinfectant of a

tablet form sanitizes the water, the goal is to sanitize, disinfect, and circulate the solution through the system for proper cleaning of footspa and basin components, not just "the water". Additionally, specifying a "liquid" form of soap and disinfectant mixes faster and saves time.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Objections or Recommendations/Responses

Written Comments received during the 45-day comment period.

The following recommendation and/or objections were made regarding the proposed action:

Son Le.

Comment:

Please do not adopt the proposed regulations. While the proposed changes vastly improve the procedures and methods of disinfecting the whirlpool footspas, I believe the proposed regulations may have the following unintended effects:

1. Cost:

This regulation will have a significant adverse economic impact on businesses. The price of a 1/2 gallon (64 ounces) or a bottle of EPA-registered hospital liquid disinfectants in various beauty supplies in the Sacramento and Bay area is approximately \$22 to \$25. After each customer, we must use 5 to 6 oz. of disinfectant liquid to disinfect the footspa basin. That would come to about \$2.00 a pop. Compare to liquid bleach, which costs pennies, this is a significant expense. With the heavy competition and the razor-thin profits in this business, we cannot absorb this cost. Also, with the new requirements, all salons will rush out to stock up on the liquid disinfectant, while they're costly now, the price may rise even higher with the demand. We may soon have counterfeit products on the market; or salon owners may dilute the solution way too weak to save money, rendering it ineffective for the intended purpose.

2. Too complicated and time consuming:

The new procedures call for too many steps to clean and disinfect after each client and after each day. It would take about 20 minutes or more to do all the recommended steps. Realistically, how many people will actually complete those steps on a very busy day? I'm sure many would skip or cut corners.

3. Overkill:

The text for this proposal is written up as if it's for disinfecting a hospital operating room and treating all customers as contagious disease carriers.

Salons that were the cause of spreading infections to patrons were caused by the salons failing to clean out the debris that had accumulated inside the footspas, and letting the normally harmless bacteria to multiply and colonize inside the footspas for a very long period. The few salons that have been failing or ignoring to clean and disinfect the spas, would continue to do so. The majority of us, who have faithfully followed the previous procedures have no problem with infections. I feel that the new procedures impose an unfair financial burden on the majority of law-abiding salons. The new proposed regulations punish and tax the wrong party.

Recommendation:

I suggest that cleaning the tub with detergent and then spray disinfectant on the surface after each customer is adequate. But at the end of each day, the spas must be cleaned thoroughly and its screen removed for scrubbing (all debris removed), then the whirlpool would be run and soaked with the disinfectant solution and leave it in over night (to kill all residual bacteria and virus). Doing this every night is a more reasonable solution.

Increase public education as it is cheaper and the key. Require salons to post signs that detail the disinfecting procedures. Make the public aware that they have the right to demand to see the cleaning log or to ask the salon to open the footspa screen for inspection at any time. Make the salons post the phone number and address of the Board's Enforcement Division so customers can contact the Board easier. Most of our law-abiding salons have no problem with any of these requirements, and other salons will be put on notice.

Board Response:

While the Board's proposed action might affect its licensees, it is the Board's responsibility to adopt rules and regulations governing conditions necessary to protect the public health and safety. The Board along with health officials, consumer groups, equipment manufacturers, and other interested parties collaborated and has determined that proposed regulations are reflective of the most effective cleaning and disinfecting practices to carry out the purpose of the Board. The Board has also increased the fines including those associated with pedicure and manicure equipment violations in response to the frequency of non-compliance with cleaning and disinfecting procedures. Additionally, the Board already requires all establishments to post the Board's health and safety requirements which includes the phone number and address of the Board for filing complaints, as well as the footspa equipment cleaning and disinfecting procedures.

Casey Bahr, CEO, Rosanna's Palm Springs Inc.

Comment:

Please do not adopt these new regulations, which cannot be implemented as written and are not a proportional response to the problem. They have tremendous negative impacts in the salon and spa industry and will greatly reduce the number of nail technicians working in salons and spas due to the increase of costs and reduction of salon income.

The tremendous impacts that would ensue by adopting these regulations and the disruptions these regulations would have on the entire industry statewide, due to a few “sweatshop” style businesses, are inappropriate and unnecessary. The fact that infection cases are rare shows that the industry is doing a commendable job of disinfecting and cleanliness. The new regulations will be ignored by the same salons and technicians that have always ignored them, thus accomplishing nothing in the way of citizen safety.

1. The proposed cleaning and disinfecting requirements are rigorous and more frequent and following them would cause us to lose the ability to continue to book appointments at our current rate. This will equate to \$76,960 per year in lost revenue.
2. In order to compete with salons that ignore regulations, and thus schedule more appointments, we would have to increase our prices by 20% to compensate for the loss in appointments due to us following the proposed regulations. I feel the market could not bear the 20% increase from \$37 to \$45 to cover the cost of those lost appointments.
3. The cost of current disinfectants is ten times more than bleach by volume. Additionally, some disinfectant types foam when re-circulated in piped pedicure equipment and create a clean-up problem.
4. We would incur an additional \$3,600 per year (\$10 a day) for chemicals and paper towels called for by the regulations.
5. The impact on our business would be approximately \$80,000 per year, furthermore, the costs associated to these regulations would cause us to consider eliminating pedicure services in our salon and put 6 full time employees out of work.

Board Response:

While the Board’s proposed action might affect its licensees, it is the Board’s responsibility to adopt rules and regulations governing conditions necessary to protect the public health and safety. Many establishments in California have already taken measures to offset costs incurred to their business and have been successful in doing so. The disinfectant solution foams and bubbles over the spa tubs which running, is experienced when the concentrate is placed in the mixing holder first and the water is added second, foaming and bubbling is exacerbated. On the other hand, when the water is added first and the disinfectant concentrate second, there is far less foaming and bubbling. Foaming can also occur if the salon tries to skimp on product by using less water and less disinfectant. This lower water level allows excessive whirlpool action and therefore agitation of the solution, like a washing machine. Establishments should always fill the basin with enough water to cover the jets by about 2". Establishments using a footspa that injects air into the water system, the airflow device should be

adjusted to "off". Some manufacturers routinely have air injection, but also have adjustable jets (directional). The nozzle of the jets should be adjusted downward.

Terri Rollerman, Licensee

Comment:

I use a "Foot Fixer" which I believe falls under a Non-Whirlpool Foot Basin. It uses electricity to heat up the unit. I cannot fully immerse the equipment in EPA solution. Can I sanitize it according to regulations pertaining to electrical items. Why does the EPA registered liquid disinfectant have to be mixed daily when the bottle doesn't say anything about the product expiring after a 24 hour period?

Board Response:

The basin you mentioned would fall under 980.3 of the proposed regulation titled, "Procedures for Cleaning and Disinfecting Non-Whirlpool Foot Basins or Tubs." Under this regulation, you shall fill the basin with the disinfectant instead of immersing it. Use the EPA registered liquid disinfectant according to the manufacturer's instructions on the bottle. The information about the disinfectant being mixed daily was on informational sheet titled, "Additional Information about Disinfectants and Cleaners." The information on said document is not required, simply recommended, and thus, not required by this regulatory proposal.

Gloria Moore, Licensee

Comment:

I have not had my salon inspected for over 10 years. How is the Board going to enforce the new regulations if you don't inspect at least once a year like you did before?

Board Response:

Our Inspection Unit has put complaints as top priority. A majority of the inspections are done in establishments that have had complaints issued about them. The Board will also inspect establishments in surrounding areas to those salons who have had the complaints issued. As with all of our regulations, it is the licensees' responsibility to adhere to the regulations and are subject to fines/citations if they are in violation. Additionally, the Board has increased the fines schedule. The new regulations have been placed on the Health and Safety posters which are supposed to be posted on the wall in all licensed establishments.

Lynn Nelson, Salus Per Aquam, Inc.

Comment:

Wants the requirement of using "liquid" disinfectant to be removed, and asks that the regulation say "EPA registered disinfectant" instead. Also water waste should be considered in the proposal of these regulations.

Recommendation:

Instead of requiring cleaning after each use, you should require the footspa to be cleaned before it is used, in order to reduce the waste of water.

Board Response:

The regulations were written with the safety of the public in mind while providing maximum sanitation and disinfection. The working group decided that the liquid disinfectant works best for circulating the solution through the footspa. The group felt that use of a disinfectant of a powder form may have problems fully dissolving in the water. Although the use of a disinfectant of a tablet form sanitizes the water, the goal is to sanitize, disinfect, and circulate the solution through the system for proper cleaning of footspa and basin components, not just "the water". Additionally, specifying a "liquid" form of soap and disinfectant mixes faster and saves time.

John T Sanders, Instructor, Orange County Apprenticeship Training Committee

Comment:

The new regulations seem to be very complete, a little complicated, but necessary for a good understanding of the problem. I do have a few recommendations.

Recommendation:

1. The new "Cleaning and Disinfecting Footspa Pedicure Equipment" regulations should be posted separately, next to the Health and Safety Regulations in the reception area of the establishment.
2. The cleaning log referenced in the regulations should be something prepared by the Board to ensure continuity and that it also be used for the non-whirlpool foot basins.
3. A reminder should be mailed to licensees stating that it is the responsibility of the owner/management and licensee to make sure the rules are being followed.

Board Response:

The new regulations are being incorporated into the Health and Safety poster and can be requested by phone or email. We also issue them to new establishments. The log is to be used for all cleaning of foot basins. The "Emergency Regulations" for FootSpas were mailed to everyone to notify them of the changes and that they would have to be aware of the cleaning logs that need to be kept.

Donna Sohr, Licensee

Comment:

I want to know how many inspectors/employees do we have that go out to enforce our regulations. I think that there should be at least 8-10 inspections a day.

Board Response:

The Board rejects this comment as it does not pertain to the proposed regulatory action.

William Berger Ph.D., President, Sensuous Solutions LLC

Comment:

My objections to the proposed regulations are as follows:

There are several regulations which I believe should be amended if they are to serve in the best interest of salon patrons, owners, nail technicians, small business distributors, and manufacturers.

The Board's recommendation specifying that only a liquid disinfectant is to be used in the footspa creates a restraint of trade. Requiring that only a liquid disinfectant be used creates a hardship to those businesses supplying a powder or tablet form of disinfectant. It will have a significant statewide adverse impact directly affecting businesses by causing extreme financial harm to those servicing nail salons and spas. The Board has not shown evidence that the use of powder or tablet is less effective than liquid. When either a powder or tablet is placed in the footspa water, the water will then become a "liquid disinfectant". Therefore, I cannot understand why they are not included in the proposed regulations.

If the Board insists on only a liquid disinfectant, manufacturers of powder or tablet disinfectants stand to lose thousands of dollars, may have to lay-off many employees, and will not be able to survive in their business.

Due to the higher costs of liquid disinfectants and in order to save money, salons operating on a smaller profit margin may use less of the disinfectant than manufacturer specifications indicate and thus would be less effective.

Liquid disinfectants are corrosive to the metal in tubs, may affect plastic over time, and cause skin burns if splashed accidentally into the eyes causing blindness. Tablets and powders are much safer.

I do not believe that disinfecting after each patron is the best or only procedure to prevent infections.

The requirement of cleaning after each client creates an enormous amount of water waste, is time consuming, costly, and I feel will not be carried out by salons. I also feel that the rigorous and cumbersome "end of day procedures" will not be followed by salons and their tired employees.

I implore you; please do not adopt these regulations without making my recommended amendments. I believe my recommendations would eliminate unnecessary financial hardships on many manufacturers and small businesses and vastly improve the currently proposed regulations.

Recommendation:

Eliminate the word "liquid" from the EPA disinfectant and not specify a particular type. This would avoid any hardships to manufacturers of powder and tablet disinfectants. Amend the regulation to include the use of a sanitizing agent to ensure the most effective sanitation and disinfection of the pedicure equipment. Amend the regulation to state "at the time of each use, an EPA registered sanitizing agent is to be used".

Board Response:

While the Board's proposed action might affect manufacturers and businesses, it is the Board's responsibility to adopt rules and regulations governing conditions necessary to protect the public health and safety. The working group decided that the liquid disinfectant works best for circulating the solution through the footspa. The group felt that use of a disinfectant of a powder form may have problems fully dissolving in the water. Although the use of a disinfectant of a tablet form sanitizes the water, the goal is to sanitize, disinfect, and circulate the solution through the system for proper cleaning of footspa and basin components, not just "the water". Specifying a "liquid" form of soap and disinfectant mixes faster and saves time. Additionally, since either a powder or tablet can be placed in water and the water will then become a "liquid disinfectant". There is no need to add it to the proposed regulations. However, the proposed regulation calls for "EPA registered" hospital-liquid disinfectant. The disinfectant chosen must be registered with the United States Environmental Protection Agency (EPA) as hospital. You may need to contact the EPA and ensure that you meet this requirement.

Dara Hansen

Comment:

I am wondering what the recommended "disinfecting/sanitizing" solution would be? I have contacted a few manufacturers and neither of them have a product that meets exactly the CA State requirements. One of the manufacturers said I could use their product but would need to add a 'defoamer' to the water. That to me seems to cancel out the whole process. I want to be 100% correct with the cleaning and sanitizing that I am supposed to be doing. I don't want to harm my clients or get fined.

Please clarify the following questions.

1. Why doesn't bleach work for this?
2. Can I use dishwasher liquid soap as the 'detergent' required for the cleaning?

Board Response:

The Task Force on Footspa Safety discussed bleach and determined that it was too hard on the pipes, parts, and other areas of a footspa. Additionally, the working groups recommendation specified cleaning solutions to be used were "detergent" and liquid "soap". When a product is labeled "detergent" or "soap", the compounds contained in each clean a surface in a certain fashion. Therefore, products labeled "detergents" and "soaps" are necessary for the procedure called for in the regulation and thus, meet the pedicure equipment cleaning regulations.

Julie, Licensee

Comment:

I am the only manicurist in my shop that does pedicures, so I know that my tubs are being sanitized correctly and the same way every time. I have two tubs that blow bubbles and are tubeless but have no

removable parts and I have always sanitized them the way the Board is proposing. I have a few questions about the proposed regulations:

1. Do the cleaning logs have to say what has been done every time it is done or just the time and date that the tubs are cleaned?
2. Since I am the only one to use the pedicure spas and logs, do I have to initial the log?
3. Can I use my appointment book to log or does it have to be a separate book.

Board Response:

You are required to log each cleaning at the specified intervals. You do not have to write exactly what you did, simply ensure that the log contains what is specified in the regulation. The regulation calls for the log to contain the date, time, initials of person who cleaned it, and should indicate at which interval it was done (i.e. after client, end of day, weekly). A cleaning log should be kept for each footspa, and made available for a client and or an inspector or Board representative to see. The Board does not recommend combining the cleaning log with an appointment book. Additionally, the Board made available on our website a sample of a cleaning log for the public to print and use. Our website address is www.barbercosmo.ca.gov.

Kathy Kessler, Licensee

Comment:

I am grateful to the Board and all who participated in making these procedures into law. As our industry evolves, the laws must keep pace to ensure client and nail technician safety.

I am requesting clarification of the regulation the footspa I use would fall under. I use a portable footbath that circulates water, but it is not a whirlpool-type basin. It is made by HotSpa (Helen of Troy) model 61360.

Board Response:

The model you mentioned although pipeless, is electrical, has removable parts/assemblies (foot massager under the arch) and uses jets to move water. Therefore, the model # 61360 would fall under 980.2, unless there are no removable parts, then it would fall under 980.3.

Ha Nghia, Licensee

Comment:

We want to make sure we comply with any new regulations set forth by the State Board, however, the new guidelines seem a bit redundant if we will be required to follow them when disposable liners are used for each pedicure. Are the new regulations in pedicure equipment sanitation and disinfection applicable if disposable plastic liners are used on pedicure tubs? We place new plastic liners for each client and the used liners are thrown out after each use.

Board Response:

Salons using plastic liners will be required to comply with the cleaning and disinfecting procedures called for according to the type of footspa as defined in sections 980.1, 980.2, or 980.3.

Heather Fair, Registrar, Oceanside College of Beauty

Comment:

Regarding specific wording required on the label of disinfectants used. My question is the use of the word 'hospital'; would a disinfectant labeled for 'health care facilities' fall within the category of State Board accepted disinfectants?

Board Response:

The proposed regulations call for “EPA registered” hospital-liquid disinfectant. The disinfectant you choose to use must be registered with the United States Environmental Protection Agency (EPA) as hospital. You may need to contact the EPA or the manufacturers of the disinfectant you choose in order ensure that they meet this requirement.

Linh Nguyen, Advance Beauty College

Comment:

I wanted to ask you a question about the procedures for cleaning and disinfecting the non-whirlpool foot basins. I know that it states in the new regs that you have to scrub and soak the foot basins, but I wanted to know if it is acceptable to use a new plastic cover over the foot basins for each client and disposing them after each client.

Board Response:

Salons using plastic liners will be required to comply with the cleaning and disinfecting procedures called for according to the type of footspa as defined in sections 980.1, 980.2, or 980.3.

Melissa

Comment:

Is it okay to use laundry or dishwashing detergent to do the end of day cleaning? The regulations do not say what kind of detergent to use?

Board Response:

The Task Force on Footspa Safety recommendations specified cleaning solutions to be used is “detergent” and liquid “soap”. When a product is “labeled” “detergent” or “soap”, compounds contained in each product clean a surface in a certain fashion. Therefore, products labeled “detergents” and “soaps” are necessary for the procedure called for in the regulation and thus, meet the pedicure equipment cleaning regulations.

Tien Nguyen, Licensee

Comment:

If I work in a nail shop without a spa chair, but only use a tub, how am I supposed to maintain the procedures of cleaning and disinfecting my tub after each service?

Board Response:

The Board provided a definition of various types of footspas in sections 980.1, 980.2, and 980.3 in this regulation proposal. Included in the definitions is a “Non-Whirlpool Foot Basin” and “Tub” in section 980.3. A licensee will be held to the cleaning and disinfecting procedures called for in this regulatory proposal according to the type of footspa as defined in sections 980.1, 980.2, or 980.3.

John Haase, President, Divina Professional Products

Comment:

I do not think the current regulatory proposal mandating the use of “liquid” hospital grade disinfectant is going to end outbreaks. The reasons I believe this is as follows:

1. The industry is fragmented and under-regulated. You are not united on where the problem is, and who should be responsible for preventing it, Salons or manufacturers.
2. The current regulatory proposal reduces a salons ability to make money by increasing their costs of doing business while doing less business.
3. Unless you educate the salons, the current proposal is hard for people to understand.
4. This proposal prevents a salon from buying and using current best, next best healthier disinfection options that may suite their business needs.
5. I know of a product available today that is safe to use and protects against Mycobacterium infections.
6. Hospital grade liquid disinfectants do not break down bio-film, which is a build-up of oil, dirt, scale and detergent, and does not protect the customer from contamination that has entered the footspa since the last time it was disinfected.

I would also like to say that the Board has not done their job in finding the best solution to the problem. I can argue that the Board does not understand the chemistry that this law is mandating, as it is old technology and the poorest choice for this industry. There are businesses that formulate chemicals to meet specific needs and my company is one of them. My company, however, will not be left in the cold if this regulatory proposal is approved as written. There may be less expensive and more effective products available than mine today or tomorrow, I ask that the Board look outside of the industry for best practices.

Board Response:

While the Board's proposed action may affect businesses and its licensees, it is the Board's responsibility to adopt rules and regulations governing conditions necessary to protect the public health and safety. The Board along with health officials, consumer groups, equipment manufacturers, and other interested parties collaborated and concluded that proposed regulations are reflective of the most effective cleaning and disinfecting practices to carry out the purpose of the Board. The Board has also increased the fines including those associated with pedicure and manicure equipment violations in response to the frequency of non-compliance with cleaning and disinfecting procedures. The Board answers numerous inquiries, provides publications, posts information on their website, inspectors explain the violations, and Board staff members participate in community outreach in order to educate businesses and licensees on our regulations. Additionally, the Board requires all establishments to post the Board's health and safety requirements which includes the phone number and address of the Board for filing complaints, as well as the footspa equipment cleaning and disinfecting procedures.

The following comments were made at the Regulatory Hearing.

Ajay Sachdeva, Sani Care Salon Products Inc.

Comment:

I agree with Mr. Hasse and Dr. Berger. In regards to the chemistry of products that is out today, I do agree that it was not available years ago. However the current product that is being recommended by the State Board of Cosmetology for the disinfectant will not effectively eliminate the amount of bacteria protium (sp). Protium has a very thick cell structure similar to tuberculosis. Any product that is going to be used for the disinfection of hard surface inanimate objects has to have a tubuerculocide claim to effectively kill protium, which the current recommended products will not do. Secondly, the disinfection and sanitation of the water is key in preventing cross-contamination and infection of the customer infecting themselves with what they have on their own body. I don't feel the current regulation is not going to adequately protect these consumers.

Board Response:

While the Board's proposed action might affect manufacturers and businesses, it is the Board's responsibility to adopt rules and regulations governing conditions necessary to protect the public health and safety. The working group decided that the liquid disinfectant works best for circulating the solution through the footspa. The group felt that use of a disinfectant of a powder form may have problems fully dissolving in the water. Although the use of a disinfectant of a tablet form sanitizes the water, the goal is to sanitize, disinfect, and circulate the solution through the system for proper cleaning of footspa and basin components, not just "the water". Specifying a "liquid" form of soap and disinfectant mixes faster and saves time. Additionally, since either a powder or tablet can be placed in water and the water will then become a "liquid disinfectant". There is no need to add it to the proposed regulations. However, the proposed regulation calls for "EPA registered" hospital-liquid disinfectant. The disinfectant chosen must be registered with the United States Environmental Protection Agency (EPA) as hospital grade. You may need to contact the EPA and ensure that you meet this requirement.

Linda Markus, Dental Hygienist

Comment:

I believe this does not start with sterilization, but with the education. Teachers are not taking the time to help their students understand the sterilization process. Most of the people who are in this field do not understand English. I have a friend who speaks Vietnamese who did not attend this meeting because she doesn't understand English. If she doesn't understand English, how can she be expected to follow directions that were not issued in her language. You have people being rushed through school so they can graduate, then work, but they have limited education in the English language.

The Board should take 6 of their inspectors and have them do a sweep in one area. That way the salon owners can't notify other salon owners so they can clean up the salon before they come. You have large salons out there, and they don't care how they are sanitizing their equipment. Their main concern is making money. Then they receive an Emergency Regulation Notice with words crossed out and amended, how do you expect a person to understand it, who is from a Third World Country, with limited English skills?

People go into salons, put their fee up, the nail technician puts gloves on, inspect their feet, and when they see fungus some nail technicians say they can't perform the pedicure service. The customer says that the last people did. I personally ask where did they go? My point is that people are doing these things just to make money. Sanitizing is not the problem, information to the licensees in their language is.

Board Response:

Our Inspection Unit has put complaints as top priority. A majority of the inspections are done in establishments that have had complaints issued about them. The Board will also inspect establishments in surrounding areas to those salons who have had the complaints issued. As with all of our regulations, it is the licensees' responsibility to adhere to the regulations and are subject to fines/citations if they are in violation. Additionally, the Board has increased the fines schedule. The new regulations have been placed on the Health and Safety posters which are supposed to be posted on the wall in all licensed establishments. The Board answers numerous inquiries, provides publications, posts information on their website, inspectors explain the violations, and Board staff members participate in community outreach in order to educate businesses and licensees on our regulations.

Robert Weaver, Salon Owner, Pinkie's Nail Salon

Comment:

To date, we have 90 to 100 employees, 5 locations and 50 spa chairs. Last summer we did a calculation and figured we have done 75,000 pedicures and to date it is more like 120,000. We have had no incidents. We have a system that is a little different than what is proposed and it works.

I went to the hearing in San Jose to try to find out what the basis was for this emergency legislation? I was told was that there was an outbreak. I research it further and found that some of the outbreaks were from chairs that had never been cleaned period. They had been in service for 1 year and had never been cleaned with any solution with any of the requirements that have existed with the state already. You can pass a regulation but that doesn't mean people will adhere to them.

The Board needs to be more aggressive with inspections and the penalties need to be harsher than what they are now. Just because there are a few horrible operators in the industry, people who are following the law and have had no incidents shouldn't have to pay for it. Water use was not considered in these proposed regulations as some areas in the state have water restrictions. I will comply with the proposed regulations and it will cost me money and I will have to pass on to the consumer. There are many salons that will not and at the end of the day, they will fill out the log even though they have not properly sanitized the equipment.

A salon owner will be responsible if the log isn't filled out correctly. Owners can't impose a \$10,000 penalty on the technician. All we can do is fire them. And then they will go up the street and get hired somewhere else. Why can't you just put the individual/operator out of work? Penalize them. You wouldn't impose more regulations on truck drivers because one was going more than 100 miles per hour, you would take away the one truck driver's license who broke the law and not allow him to drive truck anymore. Unless you deal with those people, you aren't going to solve the problem. You will just make it more difficult to do business in California.

We have a hired a person who has been licensed for 20 years and we call her our official inspector. The state doesn't inspect, so we want to make sure we are above Board and everything is operating properly. They are unannounced visits. If we find a problem, we correct it. If the problem persists, we fire them. They have to police their own area on a day to day basis. An example of a problem and regular firing. The pumice stone. It should be thrown away after each use. We have people who will hide the pumice stones and at the end of the day take them to their other location of work. Since they are part time in our salon, they will go to their other location of work and take them there. The other operators say "Why don't you just bring the pumice stone here because they throw theirs away? Nobody else does."

We have even gone so far to get the pumice stone made with our logo on it. If it is being used somewhere else, the customer would know it is stolen.

No, it will be embedded there. I am doing everything I can to protect ourselves from bad operators. We sanitized the instruments, post what the state requires on the chairs and what we do to the chairs. We also want the public to know what should be done. New regulations aren't necessary, what is existing right now works.

Recommendations:

1. Focus on the bad operators and people who don't follow the rules. Don't penalize our industry by making technological and chemical analysis of what needs to be done. Take a look at people not following the rules.
2. Penalize the individual/operator by putting them out of work.
3. The Board needs to be more aggressive with inspections and the penalties need to be harsher then what they are now.

Board Response:

Our Inspection Unit has put complaints as top priority. A majority of the inspections are done in establishments that have had complaints issued about them. The Board will also inspect establishments in surrounding areas to those salons who have had the complaints issued. As with all of our regulations, it is the licensees' responsibility to adhere to the regulations and are subject to fines/citations if they are in violation. Additionally, the Board has increased the citation/fines. The new cleaning and disinfecting procedures have been placed on the Health and Safety posters which are supposed to be posted on the wall in all licensed establishments. The enforcement of all regulations is conducted to the fullest capacity possible. The Board has prepared regulations providing for immediate suspensions of licensees who place an immediate threat to the public health and safety.

Tracia Davis, Licensee

I have never had a problem because I use a Clorox solution in the water. It is very hard for me to use gloves, so I am also protecting myself this way. Everybody I work on gets this treatment. I think the inspectors are overtaxed with their work, maybe not be able to look at everything. I think there should be additional people who can go into a business/spa/salon and see if the pedicurist is doing the pedicure correctly. I think this is just really hard on us who are trying to make a living and already doing things right. I have been cleaning my chair for 20 years, even before your regulations came out. Why are people who have not been cleaning their chairs going to clean them now?

There are Styrofoam bowls that I have lined to work on nails that have a fungus on them. I can't understand how this is legal because you use the tools in the shop on them. It is okay because you are using a solution on the tools? It is a catch 22 there. Why can't we find a company out there that will make big thick bags, put them in the chair where the water goes? Then pop a hole in the bag, let it go down the drain. Then nobody's feet are getting touched with anyone else's. Why can't we do like the dental and medical industry? Put your tools in a container for contaminated things and then someone cleans the tools and brings them back to you? But then again someone could reuse the tools and not log it in.

Why can't you. Like for drivers training.

Recommendation:

Make it mandatory to go back to school or something, if you have been cited.

Board Response:

The Board has prepared regulations providing for the immediate suspensions of and the probation of licensees who have been deemed to place an immediate threat to the public health and safety in relation to pedicure manicure equipment. As a condition of their probation, the licensee is required to take remedial training.

Phil Grawey, Business Owner, California Nail and Beauty Supply

I wanted to point out that distributors have no penalties for what they sell. We can sell a product, and it may not meet the Board's approval. We will still sell it because it is being requested and used. We are not doing our job to educate nail technicians that are requesting the product. When I first came down here I took everything I had. I can only sell 3 of them that would meet up with these regulations. There is a fourth, but it is in a spray form, and that does not meet with these standards. Would I still sell it? Yes, because it is being requested. I am not saying to crack down on us and fine us, but there are only 6 of us distributors in this area. I get questions all the time asking "Should I fill it higher than the jet?" "How many gallons go into the pedicure station?" Maybe the

Recommendation:

The Board should educate the distributors on the products that the Board requires in order for the distributor to educate our buyers.

Board Response:

The Board rejects this comment, as it does not pertain to the Board's proposed actions.

John Haase from Divina Products

When you have someone who has had a brand new chair and has cleaned it from day 1 you are going to hear stories like you did today. These are the people you need to listen to. Because I stand to profit, I would still like to say that I think my opinion is a valuable one.

Is it 1 or 2 salons out of how many in the state? You look at car accidents and see the horrible things that can happen. But if I rent a car, it states right there on the visor, you have to wear your seat belt. There is a big orange sticker that says there is an airbag. There is nothing like that on this chair. Why don't the manufactures have to put some sort of stamp on the equipment?

Also, have you simply relied on the licensing procedures and the training your employees had before they came to work for you? Or have you put in place a training program that they can all go to?

I have a customer who runs a chain of salons across the country. I think he has 900. He has his own staff that inspects the salons. It really goes to show the different levels of sophistication amount the professional who believes in his business and someone who is just going through to make some money off of this. I have stated earlier there is a lack of unity in my first presentation. After listening I see there is a unity among the people who are doing this the right way. They are not afraid to say their names. There have been a lot of suggestions from the people here who know what they are talking about. After listening today, I would ask, how can you trust the short staffed department that exist today to do any better when they have not legitimized the reason for the law going into effect? I think the answers are with the people who are here today.

With regards to the salons that will not follow these laws or best practices. When there are infections, who is liable? The salon doesn't have insurance to cover against them. The salon will go out of business. They brought it on themselves, but it will affect every other salon. Insurance may become prohibitive. It is going to come to a point where companies won't insure you.

I think there is a problem with this. If a person has done the right thing can now be pushed away because they can't afford to do the right things now because of the regulations. What if a salon has been turned away from insurance and still continues to do pedicures and an outbreak happens? Who is liable? They can't pay off the person and go out of business. What if the salon followed the law and have their logs and there is an outbreak happens? Who is liable? If they followed the state law, or a state Board recommendation, does not mean the state Board is liable if they've done everything to the letter of the law? I think there is a increasing liability here that probably should be evaluated by the state's attorney's before the law is passed as well.

Recommendation:

Require footspa manufactures to put some sort of stamp on the equipment regarding cleaning and disinfecting.

Board Response:

The Board rejects this comment, as it does not pertain to the Board's proposed actions.